

**TABLE 1****Hummel “Spread of Hours” Analysis**

Alleged Hours Worked Per Day	Alleged Hours Worked Per Week	Alleged Straight Time Hours Worked Per Week	Alleged Overtime Hours Worked Per Week	Actual Gross Amount Paid Per Week	Minimum Wage Hourly Rate	Plaintiff’s Real Hourly Rate
12	60	40	20	\$964.58	\$6.00	\$13.78

Calculation

$X = \text{Plaintiff's Real Hourly Rate}$

$40X + 20(1.5X) = \text{Gross Amount Paid Per Week}$

$40X + 30X = \text{Gross Amount Paid Per Week}$

$70X = \text{Gross Amount Paid Per Week}$

$X = (\text{Gross Amount Paid Per Week}) / 70$  [i.e.  $964.58 / 70$ ]

**$X = \$13.78$**

See Espinosa v. The Delgado Travel Agency, Inc., 2007 U.S. Dist. LEXIS 15149 at \*9-10 (S.D.N.Y. Mar. 2, 2007) (explaining test for calculating real hourly rate)

Assumptions

- Actual gross amount paid per week is based on Hummel’s lowest annual salary rate during relevant time period (i.e. \$50,158) when in fact her salary continued to increase during the applicable time period, to a maximum annual salary of \$68,000. See Appx, Tab 11, Declaration of Debra Ventura, ¶ 5.
- Hours worked per day figure of 12 is based on highest number of hours worked per day, per Hummel’s testimony. In fact, Hummel testified that her daily hours ranged between 8 and 12. See Appx., Tab 1, Hummel Tr., 245:13-18, 247:5-7, 226:5-228:23.
- Non-exempt status assumed for purposes of these calculations only
- Actual Gross Amount Paid Per Week = \$50,158 divided by 52 weeks

- Highest applicable minimum wage rate of \$6.00 used (instead of \$5.15 minimum hourly rate, which applied during the majority of the relevant time period (i.e. November 7, 2001 through December 31, 2004). See N.Y. Comp. Codes R. & Regs. tit. 12, §142-2.1.